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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/671,288	09/25/2003	James Louis Gentile	J6857(C)	1343

201 7590 08/10/2005

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EXAMINER

NICOLAS, FREDERICK C

ART UNIT	PAPER NUMBER
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3754

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Tah

Office Action Summary	Application No.	Applicant(s)	
	10/671,288	GENTILE, JAMES LOUIS	
	Examiner	Art Unit	
	Frederick C. Nicolas	3754	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 July 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 is/are pending in the application.
- 4a) Of the above claim(s) 5 and 6 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4 and 7-10 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-10 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>9/25/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Applicant's election without traverse of Species A: Figures 1 and 3, claims 1-10 in the reply filed on 7/19/2005 are acknowledged. Further, claims 5-6 have been withdrawn from consideration, because the claimed subject matter in claim 5 "the outer spring is conically tapered" directed toward a non-elected species Figure 2.
2. Claims 5-6 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 7/19/2005.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 1-4,7-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

I- Claim 1 recites the limitation "the spring device" in line 18. There is insufficient antecedent basis for this limitation in the claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-2 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's admission to the Prior Art (APA) as disclosed in claim 1 in view of Harris 5,782,621.

APA discloses the prior art in claim 1, lines 1-17, except that the spring device having a return force of greater than 4 pounds. Harris teaches the use of a spring (7) having a return force of greater than 4 pounds (col. 2, ll. 51-63 and col. 6, ll. 11-67 onto col. 7, ll. 1-11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the spring of (APA) with Harris' spring, in order to provide a spring which is engineered to exert specific forces at the fully compressed and fully extended conditions, as taught by Harris in (col. 2, ll. 51-54).

7. Claims 1-2,9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uehira et al. 5,443,569 in view of Harris 5,782,621.

Uehira et al. disclose a foam dispensing article (col. 3, ll. 3-5), which comprises a reservoir (1) for receiving a liquid product, the reservoir having a closed and an open end as seen in Figure 1, an operating unit for dispensing the foam as an air-liquid mixture at least partially positioned over the reservoir and the open end (col. 5, ll. 48-66), the unit comprising an air pump (2), the air pump comprising an air piston (11) slidable movable within an air cylinder, a liquid pump (3) concentrically surrounded at least partially by the air pump comprising a liquid cylinder and a piston (21) slidably movable within the liquid cylinder, an operating component positioned at least partially above the liquid and air pumps as seen in Figure 1, the component comprising a foam

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forming screen device (27), a product outflow channel downstream and receiving foamed liquid from the screen device as seen in Figure 1, a spring system functioning to return both air and liquid pump pistons upward to an unactivated position (col. 6, ll. 6-16), the system comprising an inner spring (25) positioned internally concentric to the air piston, a ball valve (9). Uehira et al. lack that the spring device having a return force of greater than 4 pounds. Harris teaches the use of a spring (7) having a return force of greater than 4 pounds (col. 2, ll. 51-63 and col. 6, ll. 11-67 onto col. 7, ll. 1-11).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to substitute the spring of Uehira et al. with Harris' spring, in order to provide a spring which is engineered to exert specific forces at the fully compressed and fully extended conditions, as taught by Harris in (col. 2, ll. 51-54).

8. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uehira et al. 5,443,569 in view of Harris 5,782,621 as applied to claim 1 above, and further in view of Bobrick 2,515,328.

Uehira et al.-Harris in combination have taught all the features of the claimed invention except that the spring system further comprises an outer spring within the air cylinder. Bobrick teaches the use of an outer spring (G) within air cylinder (4).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide Bobrick' spring within the air cylinder chamber of Uehira et al. and Harris, in order to keep the plunger (15) in a normally extended from the air cylinder chamber, as taught by Bobrick in (col. 2, ll. 44-45).

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9. Claims 7-8,10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Uehira et al. 5,443,569 in view of Harris 5,782,621 as applied to claim 1 above, and further in view of Grothoff 4,615,465.

Uehira et al.-Harris in combination have taught all the features of the claimed invention except that a lubricant adjacent the air piston. Grothoff teaches the use of a lubricant on the inner surface of a pump chamber (col. 7, ll. 7-58).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilize Grothoff's lubricant within the air pump chamber of Uehira et al. and Harris, in order to improve friction during the sliding of the mutually sliding pump parts is not increased relative to the prior art constructions, as taught by Grothoff in (col. 2, ll. 65-67).

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Cohen et al. 5,881,956, Shinozaki et al. 6,206,303, Flaig et al. 6,779,689, Malone 3,779,464, Schultz 4,895,279, Schultz et al. 4,735,347, Hanna et al. 4,964,544, Cater 4,272,560, van de Heijden 6,536,629, Pritchett et al. 6,612,468 and van der Heijden 5,918,771 disclose other types of dispensing materials.

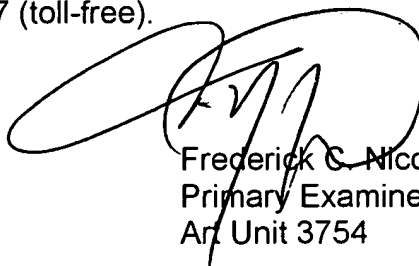
11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Frederick C. Nicolas whose telephone number is (571)-272-4931. The examiner can normally be reached on Monday - Friday from 9:00 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Y. Mar, can be reached on 571-272-4906. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FN
August 7, 2005



8/7/05
Frederick C. Nicolas
Primary Examiner
Art Unit 3754